

Certification of Compliance with Section 16-115(d)(5)

Section 16-115(d) of the Act provides that in order to become certificated as an alternative retail electric supplier (“ARES”) in Illinois, an applicant must certify that “if the applicant, its corporate affiliates or the applicant's principal source of electricity (to the extent such source is known at the time of the application) owns or controls facilities, for public use, for the transmission or distribution of electricity to end-users within a defined geographic area to which electric power and energy can be physically and economically delivered by the electric utility or utilities in whose service area or areas the proposed service will be offered, the applicant, its corporate affiliates or principal source of electricity, as the case may be, provides delivery services to the electric utility or utilities in whose service area or areas the proposed service will be offered that are reasonably comparable to those offered by the electric utility”. 220 ILCS 5/16-115(d). Blackhawk Energy Services, L.L.C. (“BES”) hereby provides the required certification.

The Illinois Commerce Commission (“Commission”) has concluded that as long as an ARES Applicant can demonstrate that it is **either** uneconomical **or** physically impossible for an Illinois electric utility to deliver electric power and energy to retail customers of an out-of-state utility affiliate, the ARES Applicant can meet the requirements of Section 16-115(d)(5) of the Act. (See 220 ILCS 5/16-115(d)(5).) BES is affiliated with Wisconsin Electric (“WE”), a Wisconsin utility, and Edison Sault, a Michigan utility. Nevertheless, BES complies with the reciprocity requirements of Section 16-115(d) of the Act because electric power

and energy **cannot** be **economically** delivered from the service territories of Commonwealth Edison Company ("Edison") and Illinois Power Company ("Illinois Power" or "IP") to serve retail load in the service areas of BES' utility affiliates. BES has demonstrated that it is uneconomical to deliver electric power and energy to retail customers of BES affiliates' WE and Edison Sault.

**A. THE COMMISSION HAS ESTABLISHED A POLICY
FOR INTERPRETING SECTION 16-115(D)(5) OF THE ACT**

On April 18, 2000, in Docket No. 00-0199, the Commission granted WPS Energy Services, Inc. ("WPS-ESI") a certificate of service authority as an ARES in Illinois. (See, Wisconsin Public Service Energy Services, Inc., *Application for a Certificate of Service Authority as an Alternative Retail Electric Supplier*, Docket 00-0199, Order at 9.) WPS-ESI is an affiliate of Wisconsin Public Service Corporation (WPS) and Upper Peninsula Power Company (UPPCO). Each of these WPS-ESI utility affiliates own and control transmission and distribution facilities for public use and for delivery of electricity to end-use customers in Wisconsin and Michigan, respectively.

In Docket No. 00-0199, the Commission found that WPS-ESI was able to demonstrate that certain Illinois utilities could not economically deliver electric power and energy to WPS-ESI affiliates under current market conditions. The Commission also concluded that since it was uneconomical for certain Illinois utilities to deliver electric power and energy to WPS-ESI utility affiliates, that it was unnecessary for WPS-ESI to also demonstrate that it is physically impossible to deliver electric power and energy to such affiliates at this time.

Thus, in Docket No. 00-0199, the Commission determined that as long as an ARES Applicant can demonstrate that it is **either** uneconomical **or** physically impossible for an Illinois electric utility to deliver electric power and energy to retail customers of an out-of-state utility affiliate, the ARES Applicant can meet the requirements of Section 16-115(d)(5) of the Act. (See 220 ILCS 5/16-115(d)(5).)

Likewise, BES has demonstrated that it is uneconomical for Edison and Illinois Power to deliver electric power and energy to retail customers of BES affiliates' WE and Edison Sault. BES relied upon the identical methodology used by WPS-ESI to demonstrate that such deliveries are uneconomical. In addition, BES calculated the total cost to deliver electric power and energy to retail customers of WE and Edison Sault by using the same cost components that the Commission accepted in the WPS-ESI application. Those components were: a) the cost of purchasing power and energy in Illinois at market prices; b) the cost of wheeling the power from Illinois to WE; c) the cost of delivery through the WE transmission and distribution system to retail end-users; and d) total system losses. In its order in the WPS-ESI proceeding, the Commission concluded that this type of analysis is relevant for purposes of assessing the economic delivery standard in Section 16-115(d)(5).

B. BES COMPLIES WITH SECTION 16-115(D)(5) OF THE ACT

Section 16-115(d)(5) of the Act requires that if an ARES applicant, its corporate affiliates or its principal source of electricity owns or controls transmission or distribution facilities (for public use), these entities must provide

delivery services on a reasonably comparable basis **if power and energy can be physically and economically delivered** to these entities by the utility or utilities in which the ARES applicant proposes to offer services. (See 220 ILCS 5/16-115(d)(5).) (Emphasis added.) BES has two corporate affiliates, WE and Edison-Sault Electric Company, which own and control transmission and distribution facilities for public use and for delivery of electricity to end-use customers in a defined geographic area.

The intent of this Section appears to be that utilities that have opened their service areas to competition in Illinois should be assured of having comparable rights to compete in the service areas controlled by any utility affiliates of an ARES applicant. The reciprocal opportunity to compete for the ability to provide electric power and energy directly to end-use customers only applies to geographic areas where “electric power and energy can be physically and economically delivered” by the Illinois utility(ies) in whose service territory the ARES is applying.

BES certifies that it complies with the reciprocity requirements of Section 16-115(d)(5) of the Act because electric power cannot be physically and economically delivered from the Edison and Illinois Power service territories to serve retail load in the service areas of BES’ utility affiliates. BES is not addressing the issue of whether Edison and Illinois Power can physically deliver electric power and energy to WE’s service territory. BES does not dispute that the delivery of wholesale electric power and energy to WE’s service territory is physically possible. However, Edison and Illinois Power cannot produce or

purchase power and energy in Illinois and economically deliver it to the retail customers of WE or Edison Sault.

**C. COMPONENTS OF EVALUATION OF
UTILITY COSTS TO DELIVER ELECTRIC POWER**

To determine if Edison or IP can economically deliver electric power and energy to retail customers in the service territories of BES' utility affiliates, the utility rates in these areas were compared to the total cost of providing electric power and energy from each respective utility. BES' analysis relied upon the following components to develop the total cost to supply and deliver electric power and energy to retail customers:

1. Edison and Illinois Power's market cost of power;
2. Any electric power transportation (transmission) costs between the Illinois utilities and WE's service territory;
3. Delivery costs within WE's service territory; and
4. Total system losses

For purposes of this evaluation, BES used WE's utility rates. BES' other utility affiliate, Edison Sault, is located in the Upper Peninsula of Michigan. It has **lower** utility rates than WE and requires **additional transmission** to wheel electric power and energy to its service territory. For purposes of the instant application, BES felt that by demonstrating that electric power and energy cannot be economically supplied to WE's retail customers, the same conclusion would apply to Edison Sault's retail electric customers.

1. Utility's Market Cost of Power

The utility's market cost of electric power and energy can best be represented by using the market values each utility utilizes to value electric power and energy under its Purchased Power Option ("PPO") tariff. The market values in each utility's PPO represent the results of a process, approved by the Commission, to determine market values for power and energy.

a. Edison

To demonstrate that Edison is not able to economically deliver power to WE's retail customers, the BES evaluation used Edison's most recent market values used in its PPO tariff. Under Period A of Edison's market index methodology, the pricing represents the annual value for electric power and energy. Since Edison has not filed market values based upon the 2001 NFF market values, BES has not submitted an analysis using NFF market with the instant application.

As an additional comparison, BES evaluated Edison's total costs to deliver electric power and energy under an incremental cost approach. As a proxy for Edison's incremental energy costs, BES used Edison's October 1999 through September 2000 average annual hourly costs calculated for energy imbalances owed to or paid by Edison for energy imbalance service. As a proxy for incremental capacity costs, BES used \$5/kw-month. BES does not believe that an incremental cost analysis is representative of the economic decision Edison would make to supply power to a WE retail customer. Since market costs are significantly higher than Edison's incremental costs, it would not be economically

prudent for Edison to sell at its incremental cost when it could sell into the market and receive a greater economic return. The incremental cost analysis represents a highly conservative approach that would be an uneconomic decision for Edison.

The BES evaluations assumed that the losses across WE's distribution system are the same as those for Edison for delivery of electric power and energy to retail customers at the same electric power and energy consumption level.

b. IP

To demonstrate that IP is not able to economically deliver power to WE retail customers, two evaluations were performed. Two evaluations using different approaches to calculate a market value were conducted since IP has requested that the Commission approve a market index method to replace the current NFF method. However, at the time of the submission of the instant application, the Commission has not yet approved IP's request.

The first evaluation used the 2001 NFF market values for the PPO. The market values were then adjusted by the same adjustments and loss factors that the Commission approved in IP's delivery services proceeding for use in IP's calculation of market values for electric power and energy. In Docket No. 00-0461, Commission Staff ("Staff") witness Richard Zuraski presented testimony regarding the market values based upon a calculation using the 2001 NFF market values adjusted by the Commission-approved adjustments and loss factors for IP. The BES evaluation relied upon the same NFF methodology as

calculated by Mr. Zuraski in the IP market index proceeding. (See Staff Exhibit 3.1, Schedule 15 (Revised), Docket No. 00-0461.)

The second evaluation relied upon the projected market values in IP's Proposed new Rider MVI. In Docket No. 00-0461, Staff witness Zuraski also presented a calculation of market values using the same adjustments and loss factors previously approved in IP's delivery services proceeding for the calculation of market values for electric power and energy. Again, the BES evaluation used the same market values using the market index methodology calculation that was presented by Mr. Zuraski in the IP market index proceeding. (See Staff Exhibit 3.1, Schedule 15 (Revised), Docket No. 00-0461.)

As an additional comparison, BES evaluated IP's total costs to deliver electric power and energy under an incremental cost approach. As a proxy for IP's incremental energy costs, BES used an arithmetic average of IP's Rider P, Parallel Generation Service energy costs. As a proxy for incremental capacity costs, BES used \$5/kw-month. BES does not believe that an incremental cost analysis is representative of the economic decision IP would make to supply power to a WE retail customer. Since market costs are significantly higher than IP's incremental costs, it would not be economically prudent for IP to sell at its incremental cost when it could sell into the market and receive a greater economic return. The incremental cost analysis represents a highly conservative approach that would be an uneconomic decision for IP.

The BES evaluation also assumed that the losses across WE's distribution system are the same as those for IP for delivery of electric power and energy to retail customers at the same voltage level.

2. Transmission Costs

The PPO market values used by Edison and IP do not include the cost of transmission of electric power and energy from the utilities' generation facilities through their transmission systems. In the BES evaluation, the total cost for Edison to deliver power to WE retail customers included the cost of Edison's transmission service. In the evaluation of the total cost for IP to deliver power to WE's retail customers, the cost of both IP's and Edison's transmission service were included in the analysis. The total cost for IP to deliver power from its system to WE's system is the cost of transmission on IP's system plus the wheeling costs through Edison's transmission system.

3. Wisconsin Electric Delivery Service Costs

The estimated costs for WE's delivery services were determined from the most recently available cost of service study ("COSS") prepared by the Wisconsin Public Service Commission for WE's service territory. The COSS functionalized costs into the categories of production, transmission, distribution and general costs. The production costs were considered to represent WE's cost of generating electricity and were not included as a cost of delivery services. The remaining costs were used to calculate the cost of delivery services.

The COSS allocated WE's costs to its retail customers into four non-residential categories: Regular Commercial, Commercial Time-of-Use ("TOU"),

Primary Voltage and Primary High Voltage. The BES evaluation compares the total cost to deliver electric power and energy from Edison and Illinois Power to each type of WE retail customer.

In addition, the cost of service study used three methods of allocating WE's costs. The cost of service study allocated costs by these methods (1) Capacity COSS, (2) Company Adjusted COSS, and (3) Location COSS. See Exhibit C-1. BES evaluated the cost for Edison and IP to supply WE retail customers under each of the three approaches used in the COSS.

4. Total System Losses

Losses were included for transmission of energy through the Edison and IP transmission systems.

D. RESULTS OF ANALYSIS OF THE COSTS TO DELIVER ELECTRIC POWER AND ENERGY FROM EDISON'S SERVICE TERRITORY TO WE RETAIL CUSTOMERS

The BES evaluation compared the total WE retail rate for each WE retail customer type to the total cost Edison would incur by supplying electric power and energy to WE retail customers.

1. Market Value of Power Applied to WE Retail Customers

Edison's market values and associated loss factors are based upon customer demand levels. For purposes of the evaluation, the market values for the Edison RCDS classes were compared to the cost to serve WE retail customers based upon comparing the Edison RCDS market values to the most appropriate WE cost of service category. BES categorized WE's customer classes to match up with Edison's delivery services customer classes as follows:

WE Retail Customer Type	Corresponding Edison RCDS Classes
Primary High Voltage	Classes 7 through 10
Primary Low Voltage	Classes 5 and 6
Commercial TOU	Class 4
Regular Commercial	Classes 2 and 3

WE's Primary High Voltage customers were assumed to generally be at a demand level of greater than 3,000 kW (Edison RCDS classes 7 through 10). Thus, the evaluation for WE Primary High Voltage customers consisted of four comparisons using the WE delivery costs from the COSS for Primary High Voltage retail customers and Edison's market values for RCDS Classes 7, 8, 9 and 10.

WE's Primary Low Voltage customers were assumed to generally be at a demand level of greater than 400 kW but less than 3,000 kW (Edison RCDS classes 5 and 6). Thus, the evaluation for WE Primary Low Voltage customers consisted of three comparisons using the WE delivery costs from the COSS for Primary Low Voltage retail customers and Edison's market values for RCDS Classes 5 and 6.

Commercial TOU customers were assumed to generally have a demand level of greater than 100 kW but less than 400 kW (Edison RCDS Class 4). Thus, the evaluation for WE Commercial TOU customers consisted of one comparison using the WE delivery costs from the COSS for Commercial TOU customers and Edison's market values for RCDS Class 4.

Regular Commercial customers were assumed to generally have a demand level of less than 100 kW, but consume more than 15,000 kWh per year (Edison RCDS Classes 2 and 3). The evaluation for WE Regular Commercial customers consisted of two comparisons using WE delivery costs from the COSS for Regular Commercial customers and Edison's market values for RCDS Classes 2 and 3.

2. Results

The results of each comparison using the market value are included in Tables C-1, C-2, and C-3. For each rate class comparison, Edison's total costs to supply WE retail customers is **between 13% and 49% greater** than the customer's current costs to WE. The results of each comparison using Edison's incremental costs are included in Tables C-4, C-5 and C-6. For each rate class comparison, Edison's total costs to supply WE retail customers is **between 8% and 37% greater** than the customer's current cost to WE.

Accordingly, Edison cannot economically supply electric power and energy to WE's non-residential retail electric customers.

E. RESULTS OF ANALYSIS OF COST TO DELIVER ELECTRIC POWER AND ENERGY FROM IP'S SERVICE TERRITORY TO WE'S RETAIL CUSTOMERS

The BES evaluation compared the total WE retail rate for each WE retail customer type to the total cost IP would incur by supplying electric power and energy to WE retail customers.

1. Market Value of Power Applied to WE Retail Customers

As with the evaluation of Edison's costs, BES needed to determine an applicable market value to apply to IP's cost for supplying electric power and energy to WE's retail customers.

Currently, IP uses the NFF market value to determine the market values for the pricing of its PPO. However, as stated above, IP has petitioned the Commission seeking approval to institute an alternative approach that utilizes a market index methodology similar to Edison's methodology. Thus, BES performed two evaluations to determine the total costs for IP to supply electric power and energy; one using the NFF market value for power and energy, and the other using the proposed alternative market index approach.

As with the Edison evaluation, BES needed to determine appropriate market values to apply to the WE retail customers. IP has segmented its market values based upon load profiles that were conducted by industry type. The market values are also adjusted for voltage level. In order to determine a reasonable proxy for WE retail customers, the BES evaluation included assumptions regarding voltage levels and customer load profiles.

2. Voltage Level

The following voltage levels were used for each of the WE retail customer types:

WE Retail Customer Type	Corresponding IP Voltage Level
Primary High Voltage	34.5 kV
Primary Low Voltage	2.4 to 12.47 kV

Commercial TOU	2.4 to 12.47 kV
Regular Commercial	Below 2.4 kV

3. Profile Type

In addition to determining a voltage level, customer load profiles also needed to be selected. Given the many levels of segmentation, the BES evaluation used representative load profiles for each customer type rather than performing dozens of evaluations using the many different load profiles. The following load profiles were selected to represent WE retail customers:

WE Retail Customer Type	Corresponding IP Load Profile
Primary High Voltage	501, Large Power (SC 21) 601, Guaranteed Large Power (SC 24)
Primary Low Voltage	501, Large Power (SC 21) 601, Guaranteed Large Power (SC 24)
Commercial TOU	401, Office, Non-Space Heat 407, Miscellaneous, Non-Space Heat
Regular Commercial	201, Office, Non-Space Heat 207, Miscellaneous, Non-Space Heat

Both profiles 501 and 601 were used to represent primary customers at the low and high voltages levels. Each of the profiles selected for the Commercial groups were chosen as they represented the most kWh for that profile within the small commercial and medium commercial categories.

4. Results

The results of the comparison using the NFF 2001 market values are included in Tables C-7, C-8, and C-9 on the following pages. The results of the comparison using the proposed market index market values are included in

Tables C-10, C-11, and C-12. The results of the comparison using IP's incremental costs are included in Tables C-13, C-14 and C-15.

For each rate class comparison using the NFF 2001 market values, IP's total costs to supply WE retail customers is **between 11% and 24% greater** than the customer's current costs to WE. If IP's proposed market index is accepted by the Commission, the total costs to supply WE retail customers is between **23% and 44% greater** than the customer's current costs to WE. For each rate class comparison using IP's marginal costs, IP's total costs to supply WE retail customers is **between break-even and 22% greater**, with only the very largest Primary Voltage customers showing total costs at break-even under the incremental cost approach.

Accordingly, IP cannot economically supply electric power and energy to WE's non-residential retail customers.

F. CONCLUSION

BES complies with the reciprocity requirements of Section 16-115(d) of the Act because electric power and energy cannot be **physically and economically** delivered from the service territories of Edison or IP to serve retail load in the service areas of BES' utility affiliates. BES used the same approach as WPS-ESI to demonstrate such deliveries are uneconomical. In addition, BES used the same cost components as were accepted by the Commission in the WPS-ESI proceeding to calculate the total cost to deliver electric power and energy to retail customers. The Commission has determined that this type of

analysis is appropriate for purposes of assessing the economic delivery standard in Section 16-115(d)(5).

Since BES has demonstrated and certified that it complies with the reciprocity requirements of Section 16-115(d) using a similar approach and methodology that the Commission accepted for WPS-ESI, BES respectfully requests that the Commission conclude that BES has met the reciprocity requirements of Section 16.115(d).